

**STATE OF CALIFORNIA
PUBLIC UTILITIES COMMISSION**

Joint Application of Comcast Corporation,)	
Time Warner Cable Inc., Time Warner)	
Cable Information Services (California),)	
LLC, and Bright House Networks)	
Information Services (California), LLC)	A.14-04-013
for Expedited Approval of the Transfer of)	
Control of Time Warner Cable)	
Information Services (California), LLC)	
(U6874C); and the Pro Forma Transfer of)	
Control of Bright House Networks)	
Information Services (California), LLC)	
(U6955C), to Comcast)	
Corporation Pursuant to California Public)	
Utilities Code Section 854(a))	

Joint Application of Comcast Corporation,)	
Time Warner Cable Information Services)	
(California), LLC (U6874C) and Charter)	A.14-06-012
Fiberlink CA-CCO, LLC (U6878C) for)	
Expedited Approval to Transfer Certain)	
Assets and Customers of Charter Fiberlink)	
CA-CCO, LLC to Time Warner Cable)	
Information Services (California), LLC,)	
Pursuant to Public Utilities Code)	
Section 851)	

**OPENING TESTIMONY AND EXHIBITS OF
SUSAN M. BALDWIN
ON BEHALF OF THE UTILITY REFORM NETWORK**

December 10, 2014

ALLEGED CONFIDENTIAL INFORMATION HAS BEEN REDACTED

TABLE OF CONTENTS

I.	INTRODUCTION.....	1
	Qualifications.....	1
	Assignment.....	3
	Organization of Testimony.....	3
	Summary of Testimony	3
II.	STANDARD OF REVIEW	6
III.	OVERVIEW OF PROPOSED TRANSACTION.....	11
	Application.....	11
	Applicants' National Operations	13
	Joint Applicants' California operations.....	14
	The Joint Applicants' depiction of the impact of the proposed transaction on California's consumers.....	17
IV.	COMPETITION	30
	The proposed merger would harm competition, and, therefore is adverse to the public interest.....	30
	The proposed merger would eliminate a valuable industry benchmark, thus harming the public interest.....	32
	The proposed merger would eliminate a potential competitor, thus harming the public interest.....	34
	The proposed merger would further entrench Comcast's dominance in the	

broadband Internet access market and would increase its share of the total voice market in California.	34
Households are relying increasingly on VoIP service to connect to the public switched telephone network.	37
Consumers are relying increasingly on the Joint Applicants’ broadband Internet access service.	47
Entry into the broadband Internet access market.....	58
Comcast’s cross-marketing agreement with Verizon further entrenches the duopolistic characteristic of the voice and the broadband markets.....	61
Consumers’ increasing reliance on higher speed broadband Internet access contributes to Comcast’s dominance of the market.	63
California has not yet achieved universal broadband Internet access, and will not do so without active intervention and leadership by the state’s policy makers.	67
Broadband adoption: Internet Essentials is insufficient.	69
Broadband adoption varies significantly among consumers, and affordability is one of the barriers to adoption.	79
V. CONSUMER PROTECTION	84
The proposed transaction would strengthen Comcast’s gatekeeper role, which would jeopardize innovation and free speech.	84
The quality of Comcast’s voice service affects the reliability of consumers’ connections to public safety.....	87
Merger-related transition and integration issues are in flux, and so the impact of the proposed merger on consumers is uncertain.....	89
Consumers’ increasing reliance on Comcast’s VoIP service for a link to the public switched network underscores the importance of consumer education regarding the safety limitations of the service.....	92
Comcast has violated consumers’ privacy previously, which raises concerns regarding its plan to increase substantially its subscriber base.	95

Competitive pressures are insufficient to cause Comcast to share merger-related synergies with consumers.....	98
VI. RECOMMENDATIONS.....	103
Conclusion	107

List of Tables

Table 1	Comcast and Time Warner Cable Nationwide Subscribership Totals as of Year-End 2013
Confidential Table 2	Joint Applicants' Residential Broadband and Voice Penetration in California
Confidential Table 3	Time Warner Cable Residential Voice Service Offerings as of August 2014 (Prices are national and for stand-alone option; demand is for California and corresponds to the product and includes product purchased as part of larger bundles)
Confidential Table 4	Comcast Residential Voice Service Offerings as of August 2014 (Prices are national and for stand-alone option; demand is for California and corresponds to product and includes product purchased as part of larger bundles)
Confidential Table 5	Time Warner Cable Residential Internet Service Offerings as of June 2014 (Prices are national and for stand-alone option; demand is for California and corresponds to the speed and includes bundles)
Confidential Table 6	Comcast Residential Internet Service Offerings as of June 2014 (Prices are national and for stand-alone option; demand is for California and corresponds to the speed and includes bundles)
Table 7	Total Residential Switched Access Lines and VoIP Subscriptions in California as of December 31, 2013
Table 8	Composition of Residential Non-Incumbent Wireline Service in California

as of December 31, 2013

Table 9 Fixed Broadband Internet Access Connections (at least 3 Mbps downstream) California, By Technology

List of Figures

Figure 1 Residential Wireline Market in California as of December 31, 2013

Figure 2 National VoIP Subscription Growth 2008-2013

Figure 3 Growth in VoIP Lines in California, 2008-2013

Figure 4 Residential Interconnected VoIP Lines Represent Almost Half of All Fixed Wireline Subscriptions, National Data

Figure 5 California Consumers Rely on Cable Modem Service More Than Any Other Fixed Broadband Service to Access the Internet (3 Mbps Download and above)

Figure 6 Residential Fixed Connections by Technology, as of December 31, 2013
Shares of Selected Technologies for Selected Speeds, National Data
(reproduced from the FCC Internet Access Report)

List of Attachments

Attachment A Statement of Qualifications of Susan M. Baldwin

List of Exhibits

Confidential Exhibit SMB-1 Time Warner Cable confidential response to ORA 1-53

Confidential Exhibit SMB-2 Excerpts from Comcast's confidential response to ORA 1-53

Confidential Exhibit SMB-3 Comcast confidential response to CD Q-1:60

Confidential Exhibit SMB-4 Comcast confidential responses to ORA Q-1:1 (including relevant excerpt from (10.27.14) Supplemental Confidential Broadband Services Spreadsheet.xlsx), ORA

	Q-1:2 (including relevant excerpt from (10.27.14) Supplemental Confidential Broadband Services Spreadsheet.xlsx), ORA Q-1:29 and Q-1:30
Exhibit SMB-5	Time Warner Cable responses to ORA Q-1:1, ORA Q-1:2, ORA Q-1:29 and Q-1:30
Exhibit SMB-6	Comcast response to ORA 4-17
Exhibit SMB-7	Time Warner Cable response to ORA Q-1:14
Exhibit SMB-8	Comcast response to ORA Q-1:14
Confidential Exhibit SMB-9	Comcast confidential response to ORA Q-1:15
Exhibit SMB-10	Time Warner Cable response to ORA Q-1:15
Exhibit SMB-11	Comcast response to CD Q-1:31
Exhibit SMB-12	Time Warner Cable response to CD Q-1:25
Exhibit SMB-13	Time Warner Cable response to ORA Q-1:28
Confidential Exhibit SMB-14	Time Warner Cable confidential response to ORA Q-1:28
Confidential Exhibit SMB-15	Comcast confidential response to ORA Q-1:28
Exhibit SMB-16	Comcast response to ORA Q-1:28, Comcast Exhibit ORA/Comcast R-1:28
Confidential Exhibit SMB-17	Time Warner Cable confidential response to ORA Q-1:9, Exhibit 3, Bates #003290-003292
Confidential Exhibit SMB-18	Comcast confidential response to ORA Q-1:9, Confidential Exhibit, ORA/Comcast Supplemental Response R-1:9
Exhibit SMB-19	Comcast response to ORA Q-1:56
Exhibit SMB-20	Time Warner Cable response to ORA Q-1:56
Exhibit SMB-21	Selected pages from redacted version of Comcast Corporation's Further Supplemental Responses to ORA's Second Set of DRs (Comcast_ORA_0001772-0001774, 0001822)
Exhibit SMB-22	Joint Applicants response to NAAC Q-1:7
Exhibit SMB-23	Applications of AT&T Inc. and DIRECTV for Consent to Assign or Transfer Control of Licenses and Authorizations, MB Docket No. 14-90, letter from Robert W. Quinn, Jr., Sr. VP-Federal Regulatory and Chief Privacy Officer to

	Marlene H. Dortch, Esq., Secretary, FCC dated November 25, 2014
Exhibit SMB-24	Selected pages from redacted version of Comcast Corporation's Further Supplemental Responses to ORA's Second Set of DRs (Comcast_ORA_0001772-0001774, 0001780-0001782, 0001794-0001798, 0001827-0001829)
Exhibit SMB-25	Comcast response to ORA Q-3:64
Exhibit SMB-26	Comcast response to CD Q-1:61
Confidential Exhibit SMB-27	Time Warner Cable confidential response to CETF Q1-1
Exhibit SMB-28	Time Warner Cable response to CETF Q1-4
Confidential Exhibit SMB-29	Time Warner Cable confidential response to CETF Q1-5
Exhibit SMB-30	Time Warner Cable response to CETF Q1-2
Confidential Exhibit SMB-31	Comcast confidential response to ORA Q-3:12
Confidential Exhibit SMB-32	Comcast confidential response to ORA Q-3:16
Exhibit SMB-33	Comcast response to TURN Q-1:8
Exhibit SMB-34	Comcast response to ORA Q-3:8
Exhibit SMB-35	Comcast response to TURN Q-1:3
Exhibit SMB-36	Comcast response to TURN Q-1:12
Exhibit SMB-37	Comcast response to TURN Q-1:14
Exhibit SMB-38	Excerpts from Letter from Kathryn A Zachem, Senior Vice President, Regulatory and State Legislative Affairs, Comcast Corporation to Marlene H. Dortch, Secretary, Federal Communications Commission, RE: Applications of Comcast Corporation, Time Warner Cable Inc., Charter Communications, Inc., and SpinCo for Consent to Assign Licenses or Transfer Control of Licenses, MB Docket No. 14-57, September 11, 2014 (Comcast 9/11/2014 redacted response to FCC Information and Data Request)
Exhibit SMB-39	Comcast response to CD Q-1:33
Exhibit SMB-40	Comcast response to CD Q-1:43
Exhibit SMB-41	Joint Applicants response to NAAC Q-1:11
Exhibit SMB-42	Comcast response to CD Q-1:52

Opening Testimony of Susan M. Baldwin
CA PUC A.14-04-013 and A.14-06-012

Exhibit SMB-43	Comcast response to CD Q-1:54
Exhibit SMB-44	Comcast response to ORA Q-3:61
Exhibit SMB-45	Comcast response to CD Q-1:74

I. INTRODUCTION

Qualifications

Q: Please state your name, position, and business address.

A: My name is Susan M. Baldwin. I am a consultant, and my business address is 17 Arlington Street, Newburyport, Massachusetts, 01950. Since 1984, I have been specializing in the economics, regulation, and public policy of telecommunications. Since 2001, I have been consulting to public sector agencies and consumer advocates as an independent consultant.

Q: Please summarize your educational background and professional experience.

A: I have prepared a Statement of Qualifications, which is included as Attachment A.

Q: Have you previously testified before or submitted declarations to the California Public Utilities Commission ("PUC" or "Commission")?

A: Yes. In 1997 and 1998, I co-authored declarations on behalf of AT&T Communications of California, Inc. (legacy AT&T), and MCI Telecommunications Corporation, in R.93-04-003 and I.93-04-002 (the Rulemaking on the Commission's Own Motion to Govern Open Access to Bottleneck Services and Establish a Framework for Network Architecture; Investigation on the Commission's Own Motion into Open Access and Network Architecture Development of Dominant Carrier Networks). In 1999, I testified on behalf of the California Office of Ratepayer Advocate in A. 98-12-005 (In the Matter of the Joint Application of GTE and Bell Atlantic to Transfer Control of GTE's California Utility Subsidiaries to Bell Atlantic, Which Will Occur Indirectly as a Result of GTE's Merger with Bell Atlantic). Earlier this year I submitted direct and rebuttal testimony in PUC C. 13-12-005 (Complaint of The Utility Reform Network Regarding

1 Basic Service Rates of AT&T California (Public Utilities Code Section 1702;
2 Commission Rule of Practice and Procedure 4.1(b)), on behalf of The Utility Reform
3 Network (“TURN”).¹

4 **Q: In addition to the work you identified in response to the previous question, have you**
5 **analyzed other proposed transfers of control?**

6 A: Yes. I have participated in more than twenty state and federal regulatory investigations
7 of the proposed transfers of control of operations and licenses of wireline, wireless and
8 cable companies. As my Statement of Qualifications in Attachment A to my testimony
9 shows, I analyzed Comcast’s acquisition of NBCU, the proposed AT&T-T-Mobile
10 merger, the transfer of spectrum from Comcast and Cox to Verizon, AT&T’s transfer of
11 its Connecticut operations to Frontier, Verizon’s sale of its property to Frontier, and
12 Verizon’s sale of its operations to FairPoint. I also sponsored testimony and declarations
13 regarding Verizon’s acquisition of MCI; SBC’s acquisition of AT&T; AT&T’s
14 acquisition of BellSouth; and Sprint’s spin-off of its local operations. In the 1990s, I
15 analyzed the proposed mergers of Sprint and WorldCom; Bell Atlantic Corporation and
16 GTE Corporation; SBC and Ameritech; and SBC and SNET. Finally, I co-managed a
17 project to assist the ORA to analyze the Commission’s investigation of the merger of
18 Pacific Telesis Group and SBC Communications.

¹ Also I contributed to the following detailed report: “Assessing SBC/Pacific’s Progress in Eliminating Barriers to Entry: The Local Market in California Is Not Yet ‘Fully and Irreversibly Open’” (with Patricia D. Kravtin, Dr. Lee L. Selwyn, and Douglas S. Williams). Prepared for the California Association of Competitive Telecommunications Companies, July 2000.

1 **Assignment**

2 **Q: On whose behalf is this testimony being submitted?**

3 A: This testimony is being submitted on behalf of TURN. TURN asked me to analyze the
4 proposed acquisition by Comcast Corporation (“Comcast”) of Time Warner Cable Inc.
5 (“Time Warner Cable” or “TWC”)), and particularly to assess the impact of the proposed
6 transaction on residential consumers in California. TURN also asked me to propose
7 conditions in the event that the PUC is contemplating approving the transaction or in the
8 event that the PUC may recommend conditions to the Federal Communications
9 Commission (“FCC”).

10 **Organization of Testimony**

11 **Q: How is your testimony organized?**

12 A: Section I introduces my testimony and Section II summarizes my understanding of the
13 statutory and regulatory framework for reviewing this transaction. In Section III, I
14 summarizes the major aspects of the proposed transaction and provide an overview of the
15 Applicants’ national and California operations. In Section IV, I analyze the impact of the
16 proposed transaction on competition. Section V discusses consumer protection issues
17 and the merger-related synergies that the Applicants anticipate. In Section VI, I
18 summarize my proposed recommendations.

19 **Summary of Testimony**

20 **Q: Please summarize your findings and recommendations.**

21 A: The Commission should deny the proposed merger for several reasons. The merger is
22 not in the public interest; it poses anticompetitive concerns; and the purported benefits

1 are vague. The merger would eliminate Time Warner Cable, a company which possesses
2 significant resources and expertise, as a potential competitor to Comcast. The merger
3 would also eliminate a valuable benchmarking tool for consumers and regulators.
4 Although the two companies do not now compete, they have the resources to enter and
5 compete in each other's footprints. Moreover, if Comcast were to increase its national
6 subscriber base by approximately 50 percent, as it proposes to do with its acquisition of
7 Time Warner Cable, Comcast likely would become even less accountable to consumers,
8 regulators, and policy makers than it is now, and it would possess yet vaster resources for
9 lobbying local, state and federal policy makers than it now has.

10
11 If the Commission, contrary to my recommendation, is considering approving the
12 proposed transaction, I urge the Commission to establish safeguards to protect consumers
13 from service quality deterioration, price increases, and selective deployment of advanced
14 broadband Internet access service. I also urge the Commission to monitor Comcast's
15 post-transaction prices and service quality. I recommend that the Commission seek
16 commitments from Comcast to share the benefits of the merger-related synergies with
17 residential consumers and to facilitate mechanisms for mitigating post-transaction
18 consumer harm. Among other things, I urge the Commission to seek commitments from
19 Comcast to: increase consumers' participation in Internet Essentials, to broaden Internet
20 Essentials to include all low income households as well as other households that are on
21 the wrong side of the digital divide (households aged 65 and over and the disabled), to
22 commit to offering stand-alone voice and stand-alone broadband Internet access service
23 at affordable rates for at least five years, to agree not to oppose broadband deployment by

1 municipalities, and to expand consumer education regarding the impact of power outages
2 on the reliability of voice over Internet protocol (“VoIP”) service. Also, I urge the
3 Commission to seek commitments from Comcast to work closely with local and state
4 officials who are responsible for preparing for and responding to emergencies.

5
6 Comcast’s role in supporting the public welfare and economic development of California
7 is substantial. At least three out of ten households rely on VoIP for their link to the
8 public switched telephone network, and VoIP demand continues to increase: Comcast is
9 likely the state’s largest VoIP supplier. Broadband Internet access has become an
10 essential service, yet its deployment, speed, and adoption varies enormously throughout
11 the state and among Californians. Moreover, there is insufficient competition in the
12 voice market and in the broadband Internet access market to yield reasonable rates, terms
13 and conditions for these essential services, and to cause Comcast to flow through any
14 merger-related synergies to consumers. Instead, it is likely that the proposed merger
15 would make Comcast even less accountable to state and federal regulators than it already
16 is. Measures to ensure that Comcast provides tangible benefits to consumers and agrees
17 to measures to increase its accountability to regulators and policy makers are essential to
18 mitigate against the harm to public interest posed by the proposed transaction.

1 **II. STANDARD OF REVIEW**

2 **Q: Please describe your general understanding of the applicable statutory framework**
3 **that guides the Commission's review of the proposed transaction.**

4 A: Section 854 of the Public Utility Code sets forth the guidelines for the Commission's
5 review of mergers such as that proposed in this proceeding.

6
7 *Pub. Util. Code § 854(a)* specifies that, "No person or corporation, whether or not
8 organized under the laws of this state, shall merge, acquire, or control either directly or
9 indirectly any public utility organized and doing business in this state without first
10 securing authorization to do so from this Commission. The Commission may establish
11 by order or rule the definitions of what constitute merger, acquisition, or control activities
12 that are subject to this section of the statute."

13
14 *Pub. Util. Code § 854(b)* states:

15 Before authorizing the merger, acquisition, or control of any electric, gas,
16 or telephone utility organized and doing business in this state, where any
17 of the utilities that are parties to the proposed transaction has gross annual
18 California revenues exceeding five hundred million dollars
19 (\$500,000,000), the commission shall find that the proposal does all of the
20 following:

- 21
22 (1) Provides short-term and long-term economic benefits to ratepayers.
23 (2) Equitably allocates, where the commission has ratemaking authority,
24 the total short-term and long-term forecasted economic benefits, as
25 determined by the commission, of the proposed merger, acquisition, or
26 control, between shareholders and ratepayers. Ratepayers shall
27 receive not less than 50 percent of those benefits.
28 (3) Not adversely affect competition. In making this finding, the
29 commission shall request an advisory opinion from the Attorney

1 General regarding whether competition will be adversely affected and
2 what mitigation measures could be adopted to avoid this result.
3

4 **Q: Are you asserting that the Applicants are “public utilities”?**

5 A: I am advised by TURN that the Applicants satisfy the definition of public utilities, and
6 that, therefore Section 854 applies to the proposed transaction.

7 **Q: What are the Section 854(c) criteria?**

8 A: The eight criteria set forth in Section 854(c) include the following:

- 9 (1) Maintain or improve the financial condition of the resulting public
10 utility doing business in the state.
11 (2) Maintain or improve the quality of service to public utility ratepayers
12 in the state.
13 (3) Maintain or improve the quality of management of the resulting public
14 utility doing business in the state.
15 (4) Be fair and reasonable to affected public utility employees, including
16 both union and nonunion employees.
17 (5) Be fair and reasonable to the majority of all affected public utility
18 shareholders.
19 (6) Be beneficial on an overall basis to state and local economies, and to
20 the communities in the area served by the resulting public utility.
21 (7) Preserve the jurisdiction of the commission and the capacity of the
22 commission to effectively regulate and audit public utility operations in
23 the state.
24 (8) Provide mitigation measures to prevent significant adverse
25 consequences which may result.
26

27 It is also my general understanding that, in applying the criteria set forth in Pub. Util.

28 Code Section 854(c), the Commission must determine whether a proposed transaction is

29 in the public interest, and that, pursuant to Pub. Util. Code Section 854(e), Joint

30 Applicants have the burden of proving by a preponderance of the evidence that the

31 requirements of Section 854 (a), (b) and (c) are met.

1 **Q: Have you reviewed the Scoping Memo for this proceeding?**

2 **A:** Yes. Among other things, the Scoping Memo states:

3
4 The scope of this proceeding includes all issues that are relevant to the
5 proposed Merger's impacts on California consumers in order to inform
6 this Commission's comments with the FCC, and determine whether any
7 conditions should be placed upon a merged entity. Bearing in mind our
8 limited resources and the FCC's and Department of Justice's concurrent
9 review of the Merger, we intend to focus this proceeding on (but do not
10 limit it to) the following limited issues that have the greatest impact on
11 California consumers:
12

- 13 1. Does the proposed change of control and the Merger meet the criteria
14 enumerated in Pub. Util. Code § 854(c)? Specifically, parties should focus
15 their attention on the criteria enumerated in Pub. Util. Code § 854(c)(6)
16 and (c)(8), with due consideration given to the merger's effect on safety,
17 reliability, consumer protection, competition as well as voice, backhaul,
18 wholesale and broadband services in California.
- 19 2. What are the implications of the Merger for broadband deployment in
20 California including, in particular, deployment of broadband to elementary
21 and secondary schools and classrooms and to unserved and underserved
22 areas of the State?
- 23 3. Is the proposed change of control in the public interest, taking into account
24 findings of fact related to topics 1 and 2?
 - 25 a. Would the Merger enhance safety and reliability of California customers
26 who receive voice and broadband services from the merged entity?
 - 27 b. Would the merged entity result in greater build out to unserved and
28 underserved areas in California as well as to California schools and
29 libraries?
 - 30 c. How would the Merger benefit California consumers? For example, will
31 the merger benefit low income outreach and adoption of broadband
32 services that are accessible, affordable, and equitable in a manner that is
33 enforceable and will help close the digital divide? Will the merger help
34 educate consumers on using computers and the internet when service is
35 provided? Will the merged entity offer standalone internet access and
36 make sure consumers are aware of this offer?
 - 37 d. Would the Merger maintain or improve the quality of service to California
38 consumers?
 - 39 e. What Merger-specific and verifiable efficiencies would likely be realized
40 by the merger?

- 1 f. What impact would the Merger have on the market for special access or
2 backhaul services?
3 i. What alternatives to the merging entities' special access backhaul facilities
4 currently exist, and what alternatives would exist after the merger?
5 ii. Would the Merger increase the ability of the merging parties to impose
6 exclusive or requirements contracts on purchasers of backhaul services?
7 g. Would the Merger, which is planned as a nationwide transaction, have
8 specific or different effects in California? For example, would the merger
9 result in less competition in the California marketplace for broadband
10 customers as compared to broadband customers nationally?²
11

12 The Scoping Memo also discussed the Commission's Section 706 authority:
13

14 Therefore, the scope of the Commission's current review of the Merger
15 between Comcast and TWC, as stated in this Ruling, falls within the
16 limited authority granted under Pub. Util. Code § 854 and Section 706(a)
17 of the Telecommunications Act. The Commission is seeking information
18 under the limited authority granted by state and federal law and protecting
19 the public interest to promote state and federal goals, such as encouraging
20 broadband deployment, promoting safety and furthering "innovation,
21 consumer choice and protection, and economic benefits to California."³
22

23 **Q: Is the FCC reviewing the proposed transaction?**

24 **A:** Yes. The FCC is reviewing the proposed transaction in MB Docket No. 14-57.⁴ On
25 October 22, 2014, the FCC's Media Bureau issued an Order Suspending the Pleading

² Scoping Memo and Ruling of the Assigned Commissioner and Administrative Law Judge, at 12-14.

³ Id., at 12, cite omitted.

⁴ On April 8, 2014, Comcast Corporation ("Comcast") and Time Warner Cable Inc. ("TWC") submitted joint applications to the Commission seeking consent to transfer control of various Commission licenses and other authorizations pursuant to Sections 214 and 310(d) of the Communications Act of 1934, as amended ("Act"). On April 8, 2014, Comcast and Time Warner Cable Inc. submitted joint applications to the Commission seeking consent to transfer control of various Commission licenses and other authorizations pursuant to Sections 214 and 310(d) of the Communications Act of 1934, as amended ("Act"). See 47 U.S.C. §§ 214, 310(d); Applications of Comcast Corp. and Time Warner Cable Inc. for Consent to Transfer Control of Licenses and Authorizations, Applications and Public Interest Statement ("FCC Joint Application" and "FCC Public Interest Statement") (filed Apr. 8, 2014).

1 Cycle and Stopping 180-Day Informal Time Clock to address disputes regarding parties'
2 access to Video Programming Confidential Information ("VPCI").⁵ On December 3,
3 2014, the FCC issued a public notice that sets forth new pleading cycles,⁶ and that states,
4 among other things: "No Reviewing Party shall have access to VPCI pending the court's
5 decision in the litigation."⁷ The FCC established a new date for Replies to
6 Responses/Oppositions – they were originally scheduled to be due on October 8, 2014,
7 and now are due on or before December 23, 2014.⁸ The FCC restarted its informal 180-
8 day "clock" as of December 3, 2014, and indicated that the clock for the Comcast-Time
9 Warner Cable proceeding is restarted at Day 85,⁹ which implies that if the FCC
10 completes its review within the 180-day period, it may issue a decision in early March
11 2015. Of course, the outcome of the litigation regarding the VPCI could prolong the
12 FCC's investigation of the proposed merger.

13 **Q: Is the Department of Justice ("DoJ") reviewing the proposed merger?**

14 **A: Yes.**¹⁰

⁵ FCC Docket MB 14-57, Order, issued October 22, 2014, DA 14-1523.

⁶ FCC Public Notice DA 14-1739, "Commission Restarts Clock in Comcast-Time Warner Cable and AT&T-DIRECTV Merger Proceedings and Establishes Dates for Respective Pleading Cycles," MB Docket Nos. 14-57 and 14-90, released December 3, 2014.

⁷ Id., at 3.

⁸ The FCC also stated: "When the court determines whether VPCI may be made available pursuant to the Second Amended Modified Joint Protective Orders, we will consider what further adjustment to the pleading requirements or transaction review clocks may be appropriate in light of the Court's ruling to provide adequate time for Reviewing Parties to review and comment on the VPCI and for the Commission to consider such comments in its analysis." Id., at 3.

⁹ Id., at 3.

¹⁰ See, e.g., "Opposition to Proposed Merger of Comcast Corp. and Time Warner Cable," filed October 2,

III. OVERVIEW OF PROPOSED TRANSACTION

Application

Q: Have you reviewed the Joint Application?

A: Yes. Comcast and Time Warner Cable (“Applicants”) filed their Joint Application on April 11, 2014 (“A.14-04-013 Joint Application”),¹¹ pursuant to Section 854(a) of the California Public Utilities Code and Article 2 and Rule 3.6 of the Commission’s Rules of Practice and Procedure. The A.14-04-013 Joint Application seeks approval of the transfer of “indirect, ultimate control” of Time Warner Cable Information Services (California), LLC (“TWCIS (CA)”) to Comcast Corporation.¹² In addition, the Applicants seek transfer of any indirect, legal interest in Bright House California to Comcast.¹³ The Joint Applicants contend that the proposed transaction will “enhance

2014 by Consumers Union with the DoJ. Among other things, Consumers Union states (at page 1):

We believe this merger violates section 7 of the Clayton Act, as it would substantially lessen competition, impede innovation by online video distributors, threaten innovation in equipment and platforms, and reduce the quality and diversity of information sources and services to the public, all to the detriment of consumers. Moreover, it would encourage a cascade of new mergers, opening the floodgates to even further concentration; new deals are already being proposed or reportedly under consideration in the wake of the Comcast/TWC announcement.

¹¹ Joint Application of Comcast Corporation, Time Warner Cable Inc., Time Warner Cable Information Services (California), LLC, and Bright House Networks Information Services (California), LLC for Expedited Approval of Indirect Transfer of Control of Time Warner Cable Information Services (California), LLC, (U-68740-C); and The Pro Forma Transfer of Control of Bright House Networks Information Services (California), LLC (U-6955-C) to Comcast Corporation, Pursuant to Public Utilities Code Section 854(A), Application No. 14-04-013, filed April 11, 2014 (“A. 14-04-013 Joint Application”).

¹² Time Warner Cable will become a wholly owned subsidiary of Comcast. A.14-04-013 Joint Application, at 10.

¹³ Joint Applicants state that “although Joint Applicants do not believe that Time Warner Cable currently

1 consumer welfare and competition and deliver substantial public interest benefits,
2 including greater competition in market segments that neither company can serve
3 effectively on its own today.”¹⁴ Joint Applicants further assert that the proposed
4 transaction will not harm competition because the companies currently do not compete
5 directly in California and, that instead the transaction will “improve” competition.¹⁵
6

7 On June 17, 2014, Comcast (on behalf of “prospective wholly owned subsidiary” TWCIS
8 (CA)), Charter Fiberlink CA-CCO, LLC and TWCIS (CA) (“Joint Applicants”) filed a
9 Joint Application to request the authorization of the transfer of assignment for a “limited
10 number of non-residential (“business”) customers and associated regulated assets of
11 Charter Fiberlink to TWCIS (CA) under PU Code Section 851.”¹⁶ Contingent upon the
12 approval of the Comcast and Time Warner transaction, Charter Fiberlink would transfer
13 all of its business telecommunications service customers with the exception of those in
14 Lake Tahoe to TWCIS (CA). This proposed transfer is estimated to impact fewer than

exercises any actual control of Bright House California, out of an abundance of caution, the Applications also seeks authority for the pro forma transfer of Time Warner Cable’s indirect, legal interest in the certificate held by Bright House California (U-6955-C).” A.14-04-013 Joint Application, at 2.

¹⁴ Id.

¹⁵ Id.

¹⁶ Joint Application of Comcast Corporation, Time Warner Cable Information Services (California), LLC, and Charter Fiberlink CA-CCO, LLC (U6878C) for Expedited Approval to Transfer Certain Assets and Customers of Charter Fiberlink CA-CCO, LLC to Time Warner Cable Information Services (California), LLC, Pursuant to Public Utilities Code Section 851, filed June 17, 2014 (“A.14-06-012 Joint Application”).

1 1,000 business customers.¹⁷

2
3 According to the Joint Applicants, the competitive local exchange carriers (“CLECs”)
4 implicated in the transaction, TWCIS (CA) and Bright House California, “face
5 substantial competition” and are “relatively small” (defined as “less than \$500 million in
6 gross annual California revenues”), and, therefore, the Commission should approve the
7 proposed transaction without hearing.¹⁸

8 **Applicants’ National Operations**

9 **Q: Please describe generally the Applicants’ national rankings in broadband Internet**
10 **access and cable markets.**

11 A: The transaction would merge two national giants. Comcast is the nation’s largest
12 broadband Internet access provider and Time Warner Cable is the third largest broadband
13 Internet access provider (AT&T is the second largest).¹⁹ Comcast is the nation’s largest
14 cable provider and Time Warner Cable is the second largest cable provider.²⁰

15 **Q: Please describe Time Warner Cable’s national operations.**

16 A: Time Warner Cable provides voice, video and high-speed Internet services to consumers

¹⁷ Id., at 9.

¹⁸ A.14-04-013 Joint Application, at 2-3. Joint Applicants propose that the proceeding be considered as a rate setting matter. Id., at 28.

¹⁹ Leichtman Research Group Press Release, “About 700,000 Add Broadband in the Third Quarter of 2014: 86.6 Million Get Broadband from Top Cable and Telephone Companies,” November 18, 2014, available at: <http://www.leichtmanresearch.com/press/111814release.html>

²⁰ Consumers Union Press Release, “CR Poll: Most consumers oppose the Comcast / Time Warner cable merger,” June 19, 2014, available at: <http://consumersunion.org/news/cr-poll-most-consumers-oppose-the-comcast-time-warner-cable-merger/>

1 and business in portions of 31 states. Time Warner Cable reported \$22.1 billion in
2 revenues and net income of \$2 billion in 2013.²¹ Time Warner's cable network serves
3 approximately 11.4 million residential and business video customers, 11.6 million high-
4 speed Internet residential and business customers and serves approximately 5.3 million
5 voice subscribers²² (4.8 million residential voice subscribers and 275,000 business voice
6 subscribers).²³

7 **Q: Please describe Comcast's national operations.**

8 A: Comcast has facilities in 39 states and the District of Columbia and provides digital
9 voice, video and high-speed Internet services to residential and business customers.²⁴
10 Comcast reported \$64.7 billion in revenues and net income of \$7.1 billion in 2013.²⁵
11 Comcast currently provides service to approximately 21.7 million video (residential and
12 business) customers, 20.7 high-speed Internet (residential and business) customers and
13 10.7 million residential and business customer voice services.²⁶

14 **Joint Applicants' California operations**

15 **Q: Please describe Time Warner Cable's operations in California.**

16 A: Time Warner Cable serves five Los Angeles area counties in California, including
17 Ventura, Los Angeles, Orange, San Bernardino, and Riverside as well as areas

²¹ Time Warner Cable 2013 Annual Report on Form 10-K, at 37, 60.

²² FCC Public Interest Statement, at 14-15.

²³ FCC Joint Application, at 3.

²⁴ A.14-04-013 Joint Application, at 7.

²⁵ Comcast 2013 Annual Report on Form 10-K, at 45, 50.

²⁶ FCC Public Interest Statement, at 8-10.

1 surrounding Palm Springs and portions of San Diego County and El Centro (Imperial
2 County).²⁷ TWCIS (CA) does not offer end-user voice services to consumers directly.
3 TWCIS (CA) provides wholesale services (switched access and local interconnection) to
4 retail VoIP providers including TWC Digital Phone, LLC (described as TWCIS (CA)'s
5 "non-carrier affiliate"), who, in turn, provides retail VoIP services to consumers.²⁸ Time
6 Warner Cable also offers video and high-speed data services.²⁹

7 **Q: Have you reviewed Time Warner Cable's revenues in California?**

8 A: Yes. Time Warner Cable's 2013 California revenues include, among others,
9 approximately [BEGIN TWC CONFIDENTIAL] [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED] [END TWC CONFIDENTIAL]³⁰

15 **Q: What is your understanding of the relationship of Bright House California to this**

²⁷ A.14-04-013 Joint Application, at 4-5.

²⁸ Id., at 4. TWCIS (CA) was granted Eligible Telecommunications Carrier status for the purpose of providing Lifeline services in April 2014 with the understanding that TWC Digital Phone, LLC would transfer its customers to TWCIS (CA) before such time as TWCIS (CA) began offering Lifeline. Neither the transfer of customers nor the offering of Lifeline had begun as of the date of the Application. A.14-04-013 Joint Application, at 4. Joint Applicants state that if TWCIS (CA) begins to offer Lifeline service before the proposed transaction, Comcast will continue to provide service to Lifeline customers afterwards. Id., at 21-22.

²⁹ Id., at 5.

³⁰ Time Warner Cable confidential response to ORA Q-1:53, which I have reproduced as Confidential Exhibit SMB-1.

1 **proceeding?**

2 A: Bright House California offers wholesale services to its parent, Bright House Networks,
3 LLC (“BHN”) and Time Warner Cable holds an indirect ownership interest in Bright
4 House California.³¹ In turn BHN provides VoIP, video and broadband services to
5 customers in its franchise areas in Bakersfield and Kern County.³² While Time Warner
6 Cable has a majority interest in Bright House Networks, Time Warner Entertainment
7 Advance-Newhouse Partnership has day-to-day control over Bright House California.³³
8 The proposed merger would not affect Bright House’s operations.

9 **Q: Please describe Comcast’s California operations.**

10 A: Comcast provides the same array of services in California as it does nationally. It offers
11 these services through a “non-common carrier VoIP operating subsidiary,” Comcast IP
12 Phone II, LLC.³⁴ Interconnected VoIP services are provided in the “vast majority” of
13 Comcast’s cable footprint in California, including the San Francisco Bay Area,
14 Sacramento, and portions of Mendocino, Nevada, Tulare, and Yuba counties.³⁵

15 **Q: Have you reviewed Comcast’s California revenues?**

16 A: Yes. For the year ending December 31, 2013, of the [BEGIN COMCAST

17 **CONFIDENTIAL]** [REDACTED]

³¹ A.14-04-013 Joint Application, at 5.

³² Id., at 6.

³³ Time Warner Cable holds 66.67% of Time Warner Entertainment Advance-Newhouse Partnership, which is the sole member of Bright House Networks. Id., at 6.

³⁴ Id., at 7.

³⁵ Id.

1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED] [END COMCAST

6 CONFIDENTIAL]³⁶

7 The Joint Applicants' depiction of the impact of the proposed transaction on California's
8 consumers.

9
10 Q: How do the Joint Applicants characterize the impact of the proposed transaction on
11 consumers in California?

12 A: Joint Applicants assert that the proposed transaction will be "seamless" to customers in
13 California because TWCIS (CA) will become a subsidiary of Comcast but the
14 Application does not seek any transfer of customers or changes in rates.³⁷ Joint
15 Applicants further state that TWCIS (CA) and Bright House Networks will continue as
16 separate operating entities.³⁸ Yet, the benefit to consumers touted by Joint Applicants is
17 that the companies plan to adopt the best practices and the best offerings from each
18 company to offer a suite of residential services.³⁹ Joint Applicants state that if, after the

³⁶ Bates Comcast_ORA_0000093. I include excerpts from Comcast's confidential response to ORA 1-53, Confidential Exhibit ORA/Comcast R-1:53 as Confidential Exhibit SMB-2 (Bates Comcast_ORA_0000090-94).

³⁷ A.14-04-013 Joint Application, at 11.

³⁸ Id.

³⁹ Id., at 16.

1 proposed transaction, Comcast wishes to make changes to rates, terms or conditions of
2 service or the transfer of customers, it will follow any applicable filing or notice
3 requirements.⁴⁰

4 **Q: What do the Joint Applicants propose with respect to the standard of review?**

5 A: The Joint Applicants urge the Commission to review the proposed transaction under PU
6 Code Section 854(a) and contend that PU Code Sections 854(b) and 854(c) do not apply
7 to the transaction.⁴¹ The Joint Applicants state that the transaction meets the requirement
8 in 854(a) that the transaction not be “adverse to the public interest” and assert that the
9 proposed transaction will “generate substantial public interest benefits” by “enhancing”
10 competition in the voice market and the deployment of advanced voice services.⁴²
11 Nevertheless, the Joint Applicants, despite arguing that 854(c) is not applicable, state that
12 the proposed transaction meets the requirements set forth in this portion of the public
13 utility code.⁴³ The Joint Applicants state that the proposed transaction will “enhance the
14 financial condition of the companies,” and that the Joint Applicants will maintain service
15 quality, maintain the quality of management, and reasonably compensate stockholders.⁴⁴
16 Comcast contends that it will treat Time Warner Cable and Comcast employees fairly,
17 but that it has not yet begun transition efforts, and, therefore, cannot provide any clarity

⁴⁰ Id., at 21.

⁴¹ Id., at 12.

⁴² Id., at 14.

⁴³ Id., at 22.

⁴⁴ Id., at 23.

1 with respect to the impact of the proposed transaction on employees in California.⁴⁵

2 Finally, the Joint Applicants state that the proposed transaction will not adversely affect
3 the Commission's jurisdiction over TWCIS (CA) or Bright House.⁴⁶

4 **Q: Specifically, how would the proposed transaction enhance competition and**
5 **infrastructure deployment according to the Joint Applicants?**

6 A: Comcast and Time Warner Cable will purportedly "combine the best aspect of their
7 robust and innovative voice service" and will do so because Comcast will be adding scale
8 to its operations, in turn encouraging "more network investment in California."⁴⁷ In sum,
9 the Joint Applicants assert that the proposed transaction will create a company "even
10 better suited to offer an array of advanced voice services in competition with ILECs
11 [incumbent local exchange carriers] and other providers."⁴⁸ According to the Joint
12 Applicants, the merger would allow Comcast and Time Warner to compete in the
13 medium sized and enterprise business customer markets, a market segment in which they
14 contend they are currently geographically constrained.⁴⁹

15 **Q: How would the magnitude of Comcast's post-merger California operations compare**
16 **with its post-merger national operations?**

17 A: Comcast estimates that, post-merger, [BEGIN COMCAST CONFIDENTIAL]

⁴⁵ Id., at 23.

⁴⁶ Id., at 24.

⁴⁷ Id., at 14.

⁴⁸ Id.

⁴⁹ Id., at 17.

1 [REDACTED] [END COMCAST CONFIDENTIAL] of its
2 pro forma broadband and voice subscribers would be in the state of California.⁵⁰ I
3 provide public nationwide subscribership numbers for Comcast and Time Warner in
4 Table 1 below.

5 **Table 1**

6 **Comcast and Time Warner Cable Nationwide Subscribership Totals**
7 **as of Year-End 2013⁵¹**
8

	Comcast	Time Warner Cable
Video	21,700,000	11,400,000
Internet	20,700,000	11,600,000
Voice	10,700,000	5,300,000
Video (residential)		11,197,000
Internet (residential)		11,089,000
Voice (residential)		4,806,000

9
10 **Q: Did you review similar data for Comcast's and Time Warner Cable's operations in**
11 **California?**

12 **A:** Yes. Confidential Table 2, below, includes information about the companies' voice and
13 broadband household subscribership in California based on the Joint Applicants'
14 confidential responses to interrogatories. Although I have not reviewed California-

⁵⁰ Comcast response to CD Q-1:60, which I include as Confidential Exhibit SMB-3. In this response, Comcast does not indicate California's pre-merger share of its national operations.

⁵¹ Source: Comcast 2013 Annual Report on Form 10-K, at 3; Time Warner Cable 2013 Annual Report on Form 10-K, at 38. Comcast Annual Report did not include residential-only subscribers.

1 specific information regarding video demand,⁵² it is reasonable to assume that the pattern
2 of relative demand for the Applicants' video, Internet access, and voice services in
3 California tracks the national pattern of demand for these three market segments. The
4 public data in Table 1, above, shows that, nationally, there is almost a one-to-one ratio
5 between the quantity of video and Internet demand (0.95 for Comcast, and 0.98 for Time
6 Warner Cable). I assume similar demand patterns for California, and therefore
7 reasonable estimates of demand for Comcast's and Time Warner Cables's video services
8 in California are the quantities shown below for "subscribed broadband households,"
9 which are designated as confidential in Table 2, below.

⁵² In Specification 4 of its Information and Data Request, the FCC requested, among other things, separately by zip code and for the entire company "(a) the number of customer locations to which cable services are available, separately for residential customer locations and other customer locations, and the penetration rate." As of the date of finalizing my initial testimony, I had not received the confidential response. I am not aware whether California-specific video information was provided in this proceeding.

Confidential Table 2
Joint Applicants' Residential Broadband and Voice Penetration in California⁵³
[BEGIN COMCAST CONFIDENTIAL]

Comcast	Time Warner	Source
<i>Households Passed Where Broadband Is Available</i>	5,489,665	Time Warner response to ORA 1-1; Comcast first supplemental response to ORA 1-1
<i>Subscribed Broadband Households</i>	2,133,609	Response to ORA 1-2
<i>Percent of Homes Passed that Subscribe to Broadband</i>	39%	Calculation
<i>Households Passed Where Voice Is Available</i>	5,546,364	Response to ORA 1-29
<i>Subscribed Voice Households</i>	783,121	Response to ORA 1-30
<i>Percent of Homes Passed that Subscribe to Voice</i>	14%	Calculation

[END COMCAST CONFIDENTIAL]

⁵³ The data in the responses is undated with the exception of Comcast broadband data which is dated August 28, 2014. I assume this is most recent available data. I provide Comcast's responses to ORA Q-1:1, ORA Q-1:2, ORA Q-1:29 and Q-1:30 as Confidential Exhibit SMB-4. I include Time Warner's responses to these same four questions as Exhibit SMB-5. Time Warner does not designate its responses as confidential. In Comcast response to ORA 4-17, Comcast stated: "The total number of households passed where Comcast's voice service is available, as stated in Comcast's Response to ORA Q-1:29 is different from the total number of households passed by Comcast's broadband service, as provided in Comcast's Response to ORA Q-1:1, for four primary reasons. First, the data provided in Comcast's Response to ORA Q-1:29 is as of June 30, 2014. The data provided in Comcast's Response to ORA Q-1:1 is as of August 28, 2014. Second, the data provided in Comcast's Response to ORA Q-1:1 includes commercial locations, and only residential data was provided in Comcast's Response to ORA Q-1:29. Third, Comcast is precluded from offering its voice service in the service territories of certain small California ILECs (e.g., Calaveras Telephone and Kerman Telephone), where local wireline competition is prohibited. Accordingly, households passed by Comcast facilities in those areas are not included in Comcast's Response to ORA Q-1:29. Fourth, there is a small part of Comcast's footprint located in Mendocino County that was recently upgraded to have broadband capability, which is required to provide voice service, but is not yet voice-capable." I include Comcast's response to ORA Q-4:17 as Exhibit SMB-6

1 **Q: Do the Applicants offer stand-alone broadband Internet access (i.e., not as part of a**
2 **larger bundle of services) in California?**

3 A: Yes.⁵⁴ In California, as of June 2014, Comcast provided stand-alone broadband Internet
4 access service to [BEGIN COMCAST CONFIDENTIAL] [REDACTED] [END COMCAST
5 CONFIDENTIAL] households, and Time Warner Cable provided stand-alone
6 broadband Internet access services to 716,739 households.⁵⁵

7 **Q: Do the Applicants offer stand-alone voice service (i.e., without a requirement to**
8 **purchase an entire bundle with broadband Internet access or video)?**

9 A: Yes.⁵⁶

10 **Q: What are the stand-alone rates for residential voice service offered by Time Warner**
11 **Cable?**

12 A: The monthly rate for Unlimited National, Unlimited In-State, and Digital Phone Local,
13 when purchased on a stand-alone basis is \$39.99, \$29.99 and \$24.99, respectively.⁵⁷ It is
14 my understanding that the Unlimited In-State and the Digital Phone Local product are
15 only available on a stand-alone basis (i.e. there is no discount available for purchasing the

⁵⁴ Time Warner Cable response to ORA Q-1:14, which I include as Exhibit SMB-7. Comcast response to ORA Q-1:14, which I include as Exhibit SMB-8.

⁵⁵ Comcast confidential response to ORA Q-1:15 and Time Warner Cable public response to ORA Q-1:15, which I include as Confidential Exhibit SMB-9 (Comcast's response) and Exhibit SMB-10 (Time Warner Cable's response).

⁵⁶ Comcast response to CD Q-1:31, which I include as Exhibit SMB-11. Time Warner Cable response to CD Q-1:25, which I include as Exhibit SMB-12.

⁵⁷ Time Warner Cable response to ORA Q-1:28(d). I include the response as Exhibit SMB-13.

product as part of a larger bundle).⁵⁸ Confidential Table 3 below shows the number of subscribers for each residential voice product offered by Time Warner Cable.

Confidential Table 3

Time Warner Cable Residential Voice Service Offerings as of August 2014⁵⁹
(Prices are national and for stand-alone option; demand is for California and corresponds to the product and includes product purchased as part of larger bundles)

[BEGIN TWC CONFIDENTIAL]

Product	Price	Number of Subscribers
Unlimited National	\$39.99	
Unlimited In-State	\$29.99	
Digital Phone Local	\$24.99	

[END TWC CONFIDENTIAL]

Q: What are the voice offerings and corresponding prices for stand-alone residential service in Comcast's California territory?

A: Comcast offers Comcast Unlimited service (which includes nationwide direct-dial calling) on a stand-alone basis for \$44.95 per month and Local with More service (which is unlimited local calling) for \$34.95 per month on a stand-alone basis. The most

⁵⁸ Id.

⁵⁹ Source: Time Warner Cable response to ORA Q-1:28(d) (price) and Time Warner Cable confidential response to ORA Q-1:28(f) (subscribers). I include the response as Confidential Exhibit SMB-14 to my testimony. The document includes descriptions of each service and pricing for business products. The pricing information in Confidential Table 3 is public information and the demand data is considered confidential. Time Warner Cable does not indicate whether these prices are set nationally or specific to California.

recently available number of subscribers for each is included in Confidential Table 4 below.

Confidential Table 4

Comcast Residential Voice Service Offerings as of August 2014⁶⁰
(Prices are for stand-alone option; demand is for California and corresponds to product and includes product purchased as part of larger bundles)

[BEGIN COMCAST CONFIDENTIAL]

Product	Price	Number of Subscribers
Comcast Unlimited	\$44.95	
Local with More	\$34.95	

[END COMCAST CONFIDENTIAL]

Q: Have the Applicants indicated whether they intend, post-merger, to offer broadband Internet access and voice services as stand-alone options?

A: I am not aware of any specific commitments by the Applicants to do so.

Q: Have you reviewed the Joint Applicants' pricing for their broadband Internet access services?

⁶⁰ Source: Comcast confidential response to ORA Q-1:28 (number of subscribers) (which I include as Confidential Exhibit SMB-15) and Comcast Exhibit ORA/Comcast R-1:28 (price) (which I include as Exhibit SMB-16). The pricing information in Confidential Table 4 is public information and the demand data is considered confidential. Pricing information provided by Comcast is for Central California and the Bay Area.

1 A: Yes. Confidential Table 5 and Confidential Table 6 summarize rates for various
2 broadband Internet service offerings of Time Warner Cable and Comcast, respectively,
3 when purchased on a stand-alone basis. The tables also show demand for the different
4 broadband Internet access speeds, but the price that any particular customer actually pays
5 depends on whether she purchases the broadband as part of a bundle, and the rates for
6 that bundle.⁶¹

⁶¹ See Comcast's and Time Warner Cable websites for further pricing information.

Confidential Table 6

Comcast Residential Internet Service Offerings as of June 2014⁶³
(Prices are for California and for stand-alone option; demand is for California and corresponds to the speed and includes bundles)

[BEGIN COMCAST CONFIDENTIAL]

Product	Download Speed	Price	Number of Subscribers
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

[END COMCAST CONFIDENTIAL]

Q: Do either of the companies offer Lifeline service in California?

A: No.⁶⁴ Comcast does not offer Lifeline service in California. TWCIS (CA) was granted Eligible Telecommunications Carrier status for the purpose of providing Lifeline services in April 2014 with the understanding that TWC Digital Phone, LLC would transfer its customers to TWCIS (CA) before such time as TWCIS (CA) began offering Lifeline. Neither the transfer of Time Warner Cable customers nor the offering of

⁶³ Internet Essentials is available only to qualified low-income families. Prices are for stand-alone service offerings, and therefore, do not reflect the prices that all subscribers pay. Source: Comcast confidential response to ORA Q-1:9, Confidential Exhibit, ORA/Comcast Supplemental Response R-1:9, Comcast_ORA_0001093. The source document includes historical price and subscriber information. I include a reproduction of this document as Confidential Exhibit SMB-18 to my testimony. The document includes descriptions of each service.

⁶⁴ Comcast response to ORA 1-56 (reproduced as Exhibit SMB-19); Time Warner Cable response to ORA -1-56 (reproduced as Exhibit SMB-20).

1 Lifeline had begun as of the date of the Application.⁶⁵

2 **Q: Do either of the Joint Applicants offer broadband Internet access at lower prices for**
3 **some low-income households?**⁶⁶

4 A: Yes. Comcast offers broadband Internet access at reduced prices for households with
5 children eligible for free or reduced priced school lunches. Time Warner Cable has been
6 conducting a pilot program that offers reduced broadband Internet access to a limited
7 number of low-income families. I discuss these programs in more detail below.

⁶⁵ A.14-04-013 Joint Application, at 4.

⁶⁶ Unless and until the PUC examines detailed data regarding the Joint Applicants' costs and revenues, it would not be appropriate to refer to these as "subsidized" rates – it is entirely possible that the lower rates are still sufficiently high to cover the Joint Applicants' costs associated with serving the various customers, especially if the customers' other services (for example, voice or video) are included.

1 **IV. COMPETITION**
2

3 **The proposed merger would harm competition, and, therefore is adverse to the public**
4 **interest.**

5
6 **Q: In your view, should the Commission consider the impact of the proposed**
7 **transaction on competition in relevant markets in California?**

8 **A: Yes. As I demonstrate in this section and throughout my testimony, competition relates**
9 **to the overall public interest of the transaction as well as to the following Section 854(c)**
10 **criteria:⁶⁷**

- 11
12 (2) Maintain or improve the quality of service to public utility ratepayers
13 in the state.
14 (6) Be beneficial on an overall basis to state and local economies, and to
15 the communities in the area served by the resulting public utility.
16 (7) Preserve the jurisdiction of the commission and the capacity of the
17 commission to effectively regulate and audit public utility operations in
18 the state.
19 (8) Provide mitigation measures to prevent significant adverse
20 consequences which may result.
21

22 **Q: What is the “starting point” relative to competition in California, i.e., what are the**
23 **Joint Applicants’ pre-merger positions in relevant markets?**

24 **A: As I demonstrate below, the residential voice and residential broadband Internet access**
25 **markets are not now competitive and the Joint Applicants are major suppliers in these**

⁶⁷ Also, Subsection 854(b)(3) provides that the transaction “[n]ot adversely affect competition,” and that “[i]n making this finding, the commission shall request an advisor opinion from the Attorney General regarding whether competition will be adversely affected and what mitigation measures could be adopted to avoid this result.”

1 markets.⁶⁸ The highly concentrated voice market and the highly concentrated broadband
2 Internet access market suggest that there is insufficient competition to yield just and
3 reasonable rates, terms, and conditions for these two essential products: market
4 concentration is a strong indicator of market power.⁶⁹ Moreover the absence of effective
5 competition means that, post-merger, there would be no incentive for Comcast to share
6 its merger-related synergies with its customers.

7 **Q: But the Applicants do not now compete in the same geographic markets and so how**
8 **could there be any anticompetitive consequence to the transaction?**

9 **A:** Because Comcast and Time Warner Cable do not serve overlapping geographic markets,
10 the proposed transaction would not eliminate the quantity of existing suppliers available
11 for any individual consumer in California, but the proposed transaction nonetheless

⁶⁸ Although the focus of my testimony is on the potential impact of the proposed transaction on residential customers, many of my concerns apply equally to small business customers. I have not analyzed the impact of the proposed transaction on mid-sized and large businesses, but these are important areas of concern. Moreover, although the impact of the proposed transaction on video programming is beyond the scope of my testimony, I urge the Commission to consider this critical area of concern, which has far-reaching implications for democracy as well as for the diversity, quality, and affordability of video programming offered to consumers. By controlling the “pipe” over which video “rides” as well as the content itself (as well as other content providers’ access to those pipes), Comcast’s integrated offerings create compelling incentives for Comcast to discriminate against its competitors. The merger, by increasing Comcast’s resources, would enhance its incentives and ability to discriminate.

⁶⁹ Incumbent local exchange carriers (“ILECs”) uniquely offer reliable stand-alone voice service (assuming their networks are maintained adequately) and clearly dominate this market because consumers lack reasonable economic substitutes for ILECs’ stand-alone voice service. Moreover, even if one were to consider the voice market more broadly so as to encompass VoIP-based services (which lack the reliability of “traditional” ILEC-provided voice service and, the price for which, when offered on a stand-alone basis, substantially exceeds the price of the ILECs’ stand-alone product) and to encompass voice offered as part of a package or bundle (the price of which typically far exceeds that of the ILEC’s stand-alone voice service), the market is still highly concentrated, and is controlled, within each local market, by a duopoly consisting of the ILEC and the incumbent cable company. This duopoly strongly indicates that there is inadequate competition.

1 would have anticompetitive consequences because it would: (1) eliminate a valuable
2 industry “benchmark”; (2) eliminate potential competition; and (3) increase Comcast’s
3 overall scale and scope.

4 **The proposed merger would eliminate a valuable industry benchmark, thus harming the**
5 **public interest.**

6
7 **Q: Please explain your reference to an industry benchmark.**

8 A: The elimination of Time Warner Cable as an industry “benchmark” would jeopardize
9 “the jurisdiction of the commission and the capacity of the commission to effectively
10 regulate and audit public utility operations in the state”⁷⁰ as it fulfills its important
11 Section 706 mandate to promote broadband service.⁷¹ Presently, the PUC can compare
12 the reliability, customer service, prices, and service offerings of Comcast and Time
13 Warner Cable, not in order to assist an individual consumer in choosing between the two
14 suppliers,⁷² but rather as a way to gauge the companies’ relative performances and
15 contributions to the state’s (1) fulfillment of its responsibility to prepare for and respond
16 to emergencies⁷³ and (2) pursuit of advanced telecommunications. With two companies,

⁷⁰ Public Utility Code Section 854(c)(7).

⁷¹ The FCC discusses the value of benchmarking in its various orders approving the merger of telecommunications carriers. See, e.g., In re the Application of NYNEX Corporation, Transferor, and Bell Atlantic Corporation, Transferee, For Consent to Transfer Control of NYNEX Corporation and Its Subsidiaries, Memorandum Opinion and Order (1997), at paras. 147-149.

⁷² Knowledge about the two suppliers’ offerings could assist the purchasing decision of the consumer who is in the unusual situation of being able to decide where in California to live based on the relative quality and prices of the incumbent cable companies’ offerings.

⁷³ In the Matter of Ensuring Customer Premises Equipment Backup Power for Continuity of Communications; Technology Transitions; Policies and Rules Governing Retirement Of Copper Loops by Incumbent Local Exchange Carriers; Special Access for Price Cap Local Exchange Carriers; AT&T

1 one can consider “best practices” – by eliminating a supplier, especially one like Time
2 Warner Cable, which possesses substantial resources and experience, one eliminates the
3 possibility for innovation as well as the state’s ability to assess alternative ways of
4 providing service and of protecting public safety.

5
6 Consumers’ ability to compare suppliers’ relative performance and prices enables
7 consumers to set expectations regarding their specific suppliers. Knowledge of a
8 different supplier’s superior version of a product (even if it is offered outside the
9 consumer’s geographic market) may assist consumers in advocating on their own behalf
10 with their suppliers if they are dissatisfied.⁷⁴ The merger of two huge companies
11 facilitates Comcast’s already substantial ability to set the bar for consumers’
12 expectations.

Corporation Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services, PS Docket No. 14-174; GN Docket No. 13-5; RM-11358; WC Docket No. 05-25; RM-10593, *Notice of Proposed Rulemaking and Declaratory Rulemaking*, rel. November 25, 2014. See, also, FCC’s New Release dated November 21, 2014, “FCC Takes Action to Preserve Reliable 911 Service as Technology Evolves,” stating among, other things (at 1):

Technology transitions, including the move to IP-based networks, can vastly improve 911 calling and help first responders during emergencies. However these transitions also present potential new vulnerabilities to 911 service. The process of routing and completing a 911 call now often involves multiple companies, sometimes geographically remote from where the call is placed. Outsourcing and consolidation of critical 911 network infrastructure means that a single 911 outage can affect more people in more places than before, and can also complicate restoration efforts.

⁷⁴ See, e.g., *Consumer Reports* article comparing cable/broadband products.
<http://www.consumerreports.org/cro/electronics-computers/computers-internet/telecom-services/bundled-services-ratings/ratings-overview.htm>

1 **The proposed merger would eliminate a potential competitor, thus harming the public**
2 **interest.**
3

4 **Q: Please elaborate on your concern about the loss of potential competition in voice and**
5 **broadband Internet access markets.**

6 A: Although the proposed transaction would not eliminate the number of broadband and
7 voice suppliers in any given geographic market (because Comcast and Time Warner
8 Cable do not serve overlapping geographic markets), the proposed transaction would
9 eliminate potential competition. Comcast and Time Warner Cable each possess
10 substantial resources and expertise and so could enter each other's market. If they merge,
11 of course this potential competition could not occur. Also, as I discuss above, by
12 acquiring Time Warner Cable, Comcast eliminates a separate barometer of broadband
13 Internet access – if the two companies merge, one will never know if Time Warner would
14 have introduced innovations in speed, quality, or price. The merger, therefore, would
15 eliminate an informative benchmark for regulators and consumers.

16 **The proposed merger would further entrench Comcast's dominance in the broadband**
17 **Internet access market and would increase its share of the total voice market in California.**
18

19 **Q: How would the proposed merger affect Comcast's market power?**

20 A: By giving Comcast yet greater economies of scale and scope, the proposed transaction
21 likely would further entrench Comcast's market power,⁷⁵ reduce its accountability to

⁷⁵ I do not have data on consumer demand for other suppliers' broadband Internet access in California. Such data would be needed to conduct a market concentration analysis using the Herfindahl–Hirschman Index, or "HHI," which measures the size of firms relative to the entire industry. The HHI indicates the level of competition among firms – the higher is the HHI, the more concentrated (i.e., less competitive) is

1 consumers and to regulators, and increase the resources it can allocate for lobbying local,
2 state, and federal policy makers to achieve its corporate objectives. The consequence for
3 consumers would be to further diminish their “bargaining” position in the market and in
4 the policy making arena. The proposed merger certainly would diminish the prospects
5 for competition for Californians, and thus would not be in the public interest.

6 **Q: Did you review competitive analyses that were prepared by or on behalf of the Joint**
7 **Applicants?**

8 A: Not yet. For example, FCC’s Data and Information Request No. 86 requested
9 competitive analyses prepared by and on behalf of Comcast. In its supplemental filing to
10 the FCC on October 23, 2014 (provided in redacted form to TURN and other intervenors
11 on November 18, 2014 as the “redacted version of Comcast Corporation’s Further
12 Supplemental Responses to ORA’s Second Set of DRs”),⁷⁶ Comcast provided additional

the market. Clearly, Comcast’s acquisition of Time Warner would increase the HHI, whether it were computed for California or for the nation. I understand that the two companies do not now compete in the same geographic markets (and, therefore, some would dispute the relevance of the HHI to this transaction) but, nonetheless, I believe that examining the change in the HHI in California’s broadband Internet access market would provide a valuable indicator of Comcast’s market power. In Section 5.3 of the Merger Guidelines (which concerns “market concentration”), the Guidelines state, among other things:

The purpose of these thresholds is not to provide a rigid screen to separate competitively benign mergers from anticompetitive ones, although high levels of concentration do raise concerns. Rather, they provide one way to identify some mergers unlikely to raise competitive concerns and some others for which it is particularly important to examine whether other competitive factors confirm, reinforce, or counteract the potentially harmful effects of increased concentration. The higher the post-merger HHI and the increase in the HHI, the greater are the Agencies’ potential competitive concerns and the greater is the likelihood that the Agencies will request additional information to conduct their analysis.

⁷⁶ I have not yet received the highly confidential versions of Comcast’s and Time Warner’s original and

1 information,⁷⁷ but I have not yet reviewed the highly confidential information.

2 **Q: Did you review the Joint Applicants' response to NAAC Q-1:7, which concerns the**
3 **impact of the proposed transaction on competition?**

4 **A:** Yes. The Joint Applicants state:

5 The Public Interest Statement (PIS) and the economists' declarations
6 attached thereto discuss the positive effects of the proposed merger on
7 competition. Rather than having any negative affect (sic) on competition,
8 competitors should be motivated to respond to the new technology and
9 services that the combined company will bring to the marketplace.
10 Moreover, as explained in the Application and in response to DR-1:3
11 above, Time Warner Cable and Comcast Corporation do not engage in
12 direct facilities-based competition with one another in California. No
13 customers will have fewer providers of voice, or broadband service to
14 choose from as a result of the transaction. Joint Respondents have, in their
15 Reply to Protests, relied upon the FCC's Local Competition Report (*see*
16 Wireline Competition Bureau, Industry Analysis and Technology
17 Division report on Local Telephone Competition: Status as of December
18 31, 2012), and have reviewed the CPUC's 2011 Market Share Analysis
19 report. Both reports are accessible to the general public and available to
20 NAAC via the Internet.⁷⁸

21
22 These promised benefits of "new technology and services" are vague and unenforceable.

23 Contrary to the Joint Applicants' assertion that the merger will not have any anti-
24 competitive consequences, the merger would result in the loss of potential competition
25 and the elimination of an important benchmark in relevant markets. Moreover, the
26 Applicants' reference to "new technology and services that the combined company will
27 bring to the marketplace" is vague. I am unaware of technology and services that the

supplemental response to the FCC's Information and Data Request, which was requested by ORA in its second set of data requests.

⁷⁷ See, e.g., Comcast_ORA_0001822, which I include in its redacted form as Exhibit SMB-21.

⁷⁸ Joint Applicants' response to NAAC Q-1:7, which I include as Exhibit SMB-22.

1 Applicants will deliver to residential consumers that they cannot now offer. The
2 Applicants also refer to the FCC's Local Competition Report, which I analyze in detail,
3 below.

4 **Q: Please summarize your concern about the merger's impact on competition in**
5 **relevant markets in California.**

6 A: As public and confidential information demonstrates, and as I discuss below, Comcast
7 supplies substantial portions of local voice markets, broadband Internet access markets,
8 and video markets.⁷⁹ Comcast's proposed acquisition of Time Warner would not only
9 extend the geographic scope of this market dominance, but also would eliminate an
10 important way for consumers, state and federal regulators, and state and federal policy
11 makers to "benchmark" Comcast's rates, terms, and conditions for its various products, to
12 the detriment of consumers and competitors. Below, I discuss the importance of
13 Comcast's voice service to the public interest in California.

14 **Households are relying increasingly on VoIP service to connect to the public switched**
15 **telephone network.**

16
17 **Q: Have you reviewed the FCC's most recently reported data regarding local voice**
18 **competition?**

19 A: Yes. According to the FCC, and as Table 7, below shows, as of December 31, 2013, of

⁷⁹ Video programming is a critically important area of review for the Commission, the FCC, and the Department of Justice. Among other things, Comcast's control of video programming and its ownership of NBCU further entrench its market power and distort its economic incentives, to the detriment of consumers and competition. My testimony focuses primarily on the voice and broadband Internet access markets, but Comcast's dominance in the cable market contributes directly to its ability to control voice and broadband Internet access markets, and its control of broadband Internet access enables it to control cable markets.

1 the approximate 8.6 million total residential wireline retail telephone lines in service in
2 California,⁸⁰ approximately 5.2 million were served by ILECs⁸¹ and 3.4 million were
3 served by non-incumbents.⁸² Non-incumbent carriers (primarily cable companies)
4 provide approximately 40% of residential wireline telephone service in California and the
5 incumbents continue to provide well over half of the residential wireline service in the
6 state.⁸³

⁸⁰ Wireline retail local telephone service encompasses two wireline technologies, as defined by the FCC in its Local Competition Report: “end-user” switched access lines and interconnected VoIP “subscriptions.” Industry Analysis and Technology Division, Wireline Competition Bureau, Federal Communications Commission, *Local Telephone Competition: Status as of December 31, 2013*, rel. October 2014 (“FCC Local Competition Report”), at 1. Most VoIP is provided by cable companies. To a much lesser extent, ILECs offer VoIP (AT&T through its U-verse and Verizon through its FiOS).

⁸¹ AT&T, Verizon, Sure West, and Frontier.

⁸² FCC Local Competition Report, at Table 10.

⁸³ FCC Local Competition Report, at Table 10.

Table 7

Total Residential Switched Access Lines and VoIP Subscriptions in California
(as of December 31, 2013)⁸⁴

	Number of Residential Lines	Percent of Total Lines
ILEC		
Switched access lines	4,136,000	48%
VoIP purchased as stand-alone	3,000	0.03%
VOIP purchased as bundled with Internet	1,075,000	12.5%
<i>ILEC Total</i>	<i>5,211,000</i>	<i>60.5%</i>
Non-ILEC		
Switched access lines	344,000	4%
VoIP purchased as stand-alone	591,000	6.9%
VoIP purchased as bundled with Internet	2,467,000	28.6%
<i>Non-ILEC Total</i>	<i>3,402,000</i>	<i>39.5%</i>
Total lines (ILEC and non-ILEC)	8,613,000	

There are very few “traditional” competitive local exchange carriers (“CLECs”) (i.e. competitors that rely on switched access lines) providing residential service to consumers and 78% of all CLEC lines (including business lines) rely on the incumbent carriers’ facilities (either resold service or unbundled network elements (“UNE”)).⁸⁵ As a result, other than ILECs, cable companies are the major suppliers of wireline service – in the

⁸⁴ FCC Local Competition Report, at Table 10. Figures may not add due to rounding.

⁸⁵ Id., at Table 15.

1 vast majority of instances they offer voice service as part of a bundle (with broadband
2 Internet access or video services).

3 **Q: Does the FCC report provide information about the residential lines that are served**
4 **by non-ILECs in California?**

5 A: Yes. While the FCC report does not disaggregate the “traditional” CLEC-served
6 residential lines among those that are resold, UNE-based, or facilities-based), the FCC
7 report does differentiate between switched access lines and VoIP subscriptions. As Table
8 8 shows, just 10% of the residential CLEC lines were switched access lines: 90% of the
9 CLEC residential lines provided in California were VoIP lines (i.e., provided by the cable
10 companies),⁸⁶ which is consistent with the evolution of the duopoly that now exists
11 consisting, within any given geographic market, of the incumbent local exchange carrier
12 and the incumbent cable company.

⁸⁶ Id., at Table 10.

Table 8
Composition of Residential Non-Incumbent Wireline Service in California
as of December 31, 2013⁸⁷

	<i>Number of lines</i>	<i>% of Total</i>
Switched access lines	344,000	10%
VoIP purchased as stand-alone	591,000	17%
VoIP purchased as bundled with Internet	2,467,000	73%
Non-ILEC Total	3,402,000	

Q: What do you conclude from the data that you summarize in Table 8, above?

A: The vast majority of the non-ILEC interconnected VoIP subscriptions are provided as a part of a bundle with cable modem broadband service.⁸⁸ This characteristic of markets demonstrates that even the minimal competition that the cable-telecommunications duopoly provides is limited to those customers who seek a bundled offering, consisting of a combination of broadband access to the Internet, and voice service (and often with video service).

Figure 1 below demonstrates the dominance of the incumbents' services and cable bundle

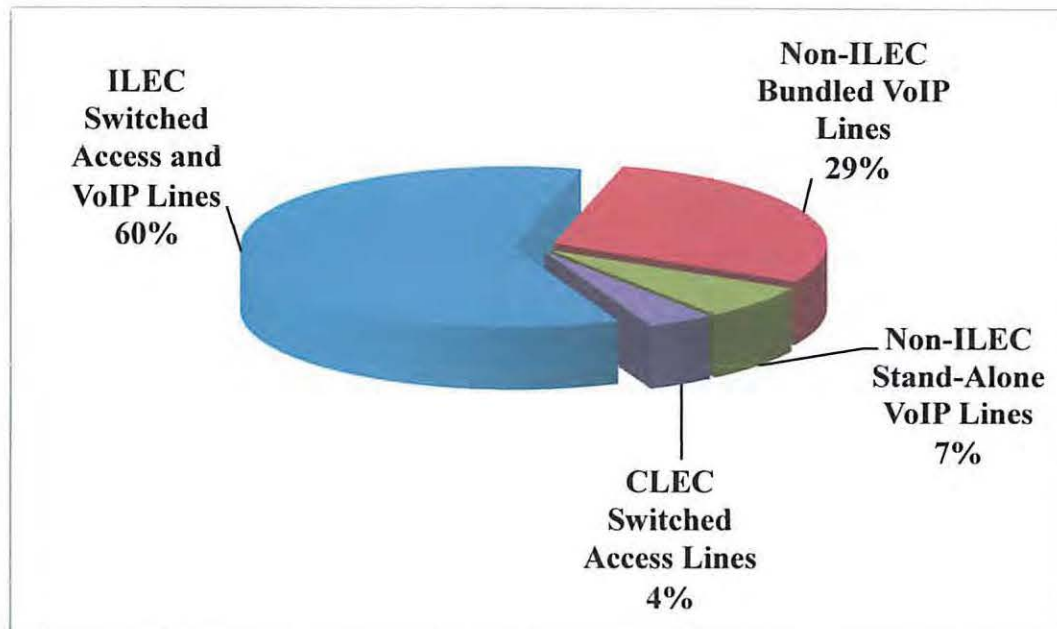
⁸⁷ Source: FCC Local Competition Report, at Table 10.

⁸⁸ I use the term "bundle" to refer to telecommunications services being purchased in combination with broadband Internet access ("double play") or with both broadband Internet access and video ("triple play"). If a customer also purchases wireless service from Verizon Wireless as a result of Comcast's cross-marketing agreement with Verizon, that could be considered a "quadruple play" bundle." I use the term "package" to refer to the offering at a single price of several telecommunications services, but not to any offer that includes either video service or broadband Internet access.

packages in the residential wireline market in California.

Figure 1

**Residential Wireline Market in California
as of December 31, 2013⁸⁹**



I discuss the implications of cable entry in the telephone market in more detail below and explain why a cable-telco duopoly in the provision of bundles does not protect the basic exchange consumer.

Q: What has been the trajectory of demand for VoIP services offered by cable companies over time?

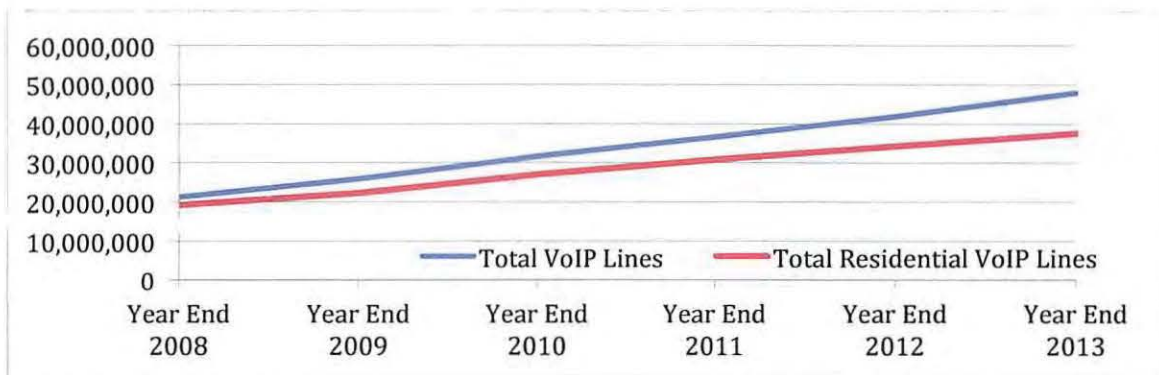
A: Demand for VoIP services has been growing over time, which raises the stakes for Comcast's role as a significant provider of households' links to the public switched

⁸⁹ Source: Local Competition Report, at Table 10.

1 network and to public safety.⁹⁰ Nationally, residential VoIP lines have increased 78%
2 from year-end 2008 through year-end 2013. Figure 2 below also show that total
3 (residential and business) VoIP lines increased 126% to just shy of 48 million at the end
4 of 2013.

5 **Figure 2**

6 **National VoIP Subscription Growth 2008-2013⁹¹**



7
8 Figure 3, below, shows that in California, the quantity of residential VoIP lines in service
9 increased 109% from 1.7 million at year end 2008 to 4.1 million at year end 2013.⁹²
10 During the same time span, the total quantity (residential and business) of VoIP lines
11 increased 168% from 2.1 million lines to 5.7 million lines.⁹³

⁹⁰ Comcast primarily markets to those customers who seek voice service that is offered as part of a “double-play” or “triple play” bundle.

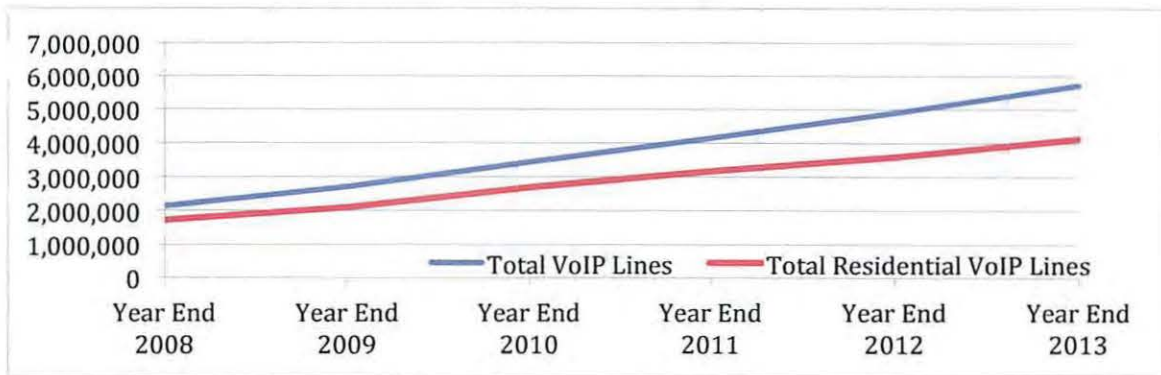
⁹¹ Source: FCC, Wireline Competition Bureau, Industry Analysis and Technology Division, Local Telephone Competition: Status as of December 31, 2013, rel. October 2014; Status as of December 31, 2012, rel. November 2013; Status as of December 31, 2011, rel. January 2013; Status as of December 31, 2010, rel. October 2011; Status as of December 31, 2009, rel. January 2011; Status as of December 21, 2008, rel. June 2010.

⁹² Id.

⁹³ Id.

Figure 3

Growth in VoIP Lines in California, 2008-2013⁹⁴



Q: Are VoIP lines a larger share of total residential lines than in the past?

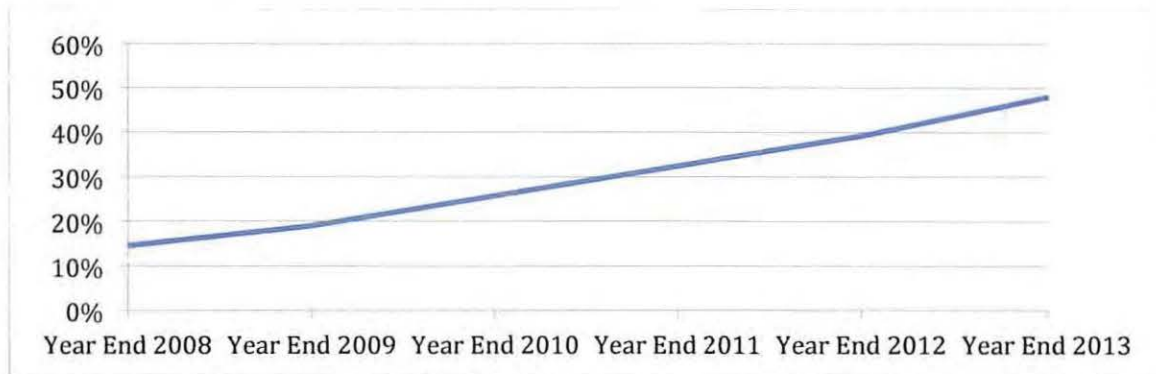
A: Yes. As Figure 4 shows, as of year-end 2008, residential VoIP lines represented approximately 15% of all total switched access and VoIP lines (i.e. “fixed wirelines”). At the end of 2013, VoIP lines made up 48% of those lines.⁹⁵ I understand that the Commission does not regulate the rates and quality of VoIP service,⁹⁶ but in light of the relationship of VoIP to public safety (VoIP service will not function during prolonged power outages), I urge the Commission to consider Comcast’s role in working with local and state officials to ensure that consumers are adequately informed about the limitations of VoIP during prolonged power outages.

⁹⁴ Id.

⁹⁵ Id.

⁹⁶ P.U. Code § 710.

Figure 4
Residential Interconnected VoIP Lines Represent Almost Half
of All Fixed Wireline Subscriptions
National Data⁹⁷



Q: Your focus thus far has been on competition in the wireline voice market. Don't many consumers now rely solely on their wireless phone, and isn't their "cord-cutting" relevant to a complete assessment of Comcast's role in local voice markets?

A: Although approximately two in five households have "cut the cord," this pattern is generation-specific. Based on today's demographics, as age increases, so does reliance on the wireline (of course, as today's youth ages, cord-cutting among "older" households may increase). The most recent data available shows that nationally, in the second half of 2013, 39.1% of adults lived in wireless-only households.⁹⁸ However, older adults are

⁹⁷ FCC, Wireline Competition Bureau, Industry Analysis and Technology Division, Local Telephone Competition: Status as of December 31, 2013, rel. October 2014; Status as of December 31, 2012, rel. November 2013; Status as of December 31, 2011, rel. January 2013; Status as of December 31, 2010, rel. October 2011; Status as of December 31, 2009, rel. January 2011; Status as of December 21, 2008, rel. June 2010.

⁹⁸ Stephen J. Blumberg, Ph.D., and Julian V. Luke, Division of Health Interview Statistics, National Center for Health Statistics, Centers for Disease Control and Prevention, *Wireless Substitution: Early Release of Estimates From the National Health Interview Survey, July - December 2013*, rel. July 8, 2014, at 1. The report is available at: <http://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201407.pdf>.

1 much less likely to “cut the cord”: 47.8% of adults aged 35-44 years; 31.4% of adults
2 aged 45-64 years; and 13.6% of adults aged 65 years and over lived in households that
3 relied solely on wireless telephones in the last six months of 2013.⁹⁹ These data show
4 that older consumers rarely view wireless service as an economic substitute for wireline
5 service (they may subscribe to wireless service, but they use wireless service *in addition*
6 *to* rather than *instead of* wireline service).¹⁰⁰ A wireline connection continues to be
7 essential, perhaps for its reliability and familiarity. Those customers that continue to
8 subscribe to wireline service do not benefit from the presence of wireless services as an
9 alternative because they are not in those cases actually *alternatives*. Moreover customers
10 place a unique value on having a landline phone,¹⁰¹ and from a consumer’s perspective,
11 Comcast’s voice service, offered using VoIP, may appear the same as the ILEC’s voice
12 service. The proposed merger would increase the scale of Comcast’s wireline voice
13 service in California, and therefore the total quantity of households that would be affected
14 by the prices and quality of its voice service. In those parts of the state where AT&T and
15 Verizon choose not to repair and maintain their copper networks (and where they do not
16 offer FiOS or U-verse), consumers may end up with a “choice” of either “traditional”

⁹⁹ Id., at 2.

¹⁰⁰ The Pew Research Center estimates that approximately 77% of adults 65 and older have cell phones. Pew Research Center, April 2014, “Older Adults and Technology Use.” The Report is based, in part, on data from Pew Research Center’s Internet Project July 18-September 30, 2013 and is available at: <http://www.pewinternet.org/2014/04/03/older-adults-and-technology-use/>.

¹⁰¹ Customers value landline service even if they may also subscribe to wireless service. This preferences is corroborated by survey evidence reported in a recently released paper about consumer attitudes and preferences regarding their landline telephone service. John B. Horrigan, Ph.D., “Consumers and the IP Transition: Communications patterns in the midst of technological change,” November 2014.

1 ILEC service for which the dial tone is not repaired in a timely manner or a cable
2 company's VoIP service. Comcast's post-merger role as a widespread supplier of
3 consumers' connections to the public switched network raises the need for increased
4 accountability by Comcast for the rates, terms, and conditions of its voice offerings.

5 **Consumers are relying increasingly on the Joint Applicants' broadband Internet access**
6 **service.**

7 **Q: Have you reviewed the FCC's most recently reported data regarding high-speed**
8 **and broadband Internet access?**

9 A: Yes. The FCC released its most recent Internet Access Services report in October
10 2014.¹⁰² As of December 31, 2013, the "subscriberhip ratio" (number of residential
11 fixed connections with download speed of at least 3 Mbps compared to number of
12 households) in California was 0.65. This compares to a national subscriberhip ratio of
13 0.60.¹⁰³

14
15 As of December 31, 2013, there were approximately 38.7 million "high-speed"
16 connections (over 200 kbps in at least one direction) in service in California, consisting

¹⁰² Industry Analysis and Technology Division, Wireline Competition Bureau, Federal Communications Commission, *Internet Access Services: Status as of December 31, 2013*, October 2014 ("FCC Internet Access Services Report"). Available at: https://apps.fcc.gov/edocs_public/attachmatch/DOC-327829A1.pdf.

¹⁰³ FCC Internet Access Services Report, at Table 13. Colorado, Connecticut, Delaware, District of Columbia, Hawaii, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, Utah, Vermont, Virginia and Washington have higher subscriber ratios. For all connections over 200 kbps in at least one direction (not necessarily considered "broadband"), that is, including the higher speeds as well, California had a subscriberhip rate of 78%. Id., at Table 14.

1 of approximately 4.2 million xDSL lines, 5.7 million cable modem connections, almost
2 one million fiber connections and 27.7 million mobile wireless connections.¹⁰⁴

3 **Q: Why do you put quotation marks around “high speed” in your previous response?**

4 A: Few people today would consider 200 kbps to be “high speed.” There were
5 approximately 28 million *broadband* connections, i.e., connections of at least 3 Mbps
6 downstream,¹⁰⁵ in service as of December 31, 2013.¹⁰⁶ Of course, societal expectations
7 of broadband capabilities continues to increase.

8
9 Table 9 excludes mobile wireless and includes fixed broadband connections over 3 Mbps
10 downstream. Table 9 shows that 61% of fixed broadband connections in California are
11 cable modem, 28% are xDSL, 9% are fiber, 1.5% are “other wireline” and satellite, and

¹⁰⁴ FCC Internet Access Services Report, at Table 16.

¹⁰⁵ When it completed the National Broadband Plan in 2010, the FCC established a “national broadband availability target” of 4 Mbps download and 1 Mbps upload speed. Federal Communications Commission, Connecting America: The National Broadband Plan, report submitted to the U.S. Congress, March 17, 2010 (“National Broadband Plan”), at 135. The American Recovery and Reinvestment Act of 2009 (“ARRA”) was signed into law on February 17, 2009. American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Stat. 115 (2009) (“ARRA”). As part of the Broadband Technology Opportunities Program established by the ARRA, the FCC was required to develop a National Broadband Plan by February 17, 2010. The FCC requested an extension of that deadline in January, 2010. See, Letter to Honorable John D. Rockefeller, Chairman, Committee on Commerce, Science and Transportation, United States Senate from Julius Genachowski, Chairman, Federal Communications Commission, January 7, 2010. However, the FCC previously collected data in speed tiers that included a delineation of 3 Mbps. As such, the FCC continues to use the 3 Mbps download speed as a proxy for “broadband.” See, e.g., In the Matter of Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, as Amended by the Broadband Data Improvement Act, GN Docket No. 14-126, *Tenth Broadband Progress Notice of Inquiry*, released August 5, 2014.

¹⁰⁶ FCC Internet Access Services Report, at Table 17.

0.3% are fixed wireless.¹⁰⁷

Table 9
Fixed Broadband Internet Access Connections (at least 3 Mbps downstream)
California, By Technology¹⁰⁸

	Fixed High-Speed Connections at Least 3 Mbps Downstream	Percentage of Total Connections
Fixed Wireless	29,000	0.3%
Other Wireline and Satellite	131,000	1.5%
Fiber	811,000	9.0%
xDSL	2,524,000	28.1%
Cable Modem	5,486,000	61.1%
Total	8,981,000	100.0%

¹⁰⁷ FCC Internet Access Services Report, at Table 17.

¹⁰⁸ Source: FCC Internet Access Services Report, at Table 17.